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FISH & RICHARDSON, P.C.			PONIKIEWSKI, TOMASZ	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/757,315

Applicant(s)

KRAISS, ACHIM

Examiner

Tomasz Ponikiewski

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 16-24 and 26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date: _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. The Amendment filed on March 5, 2007 has been received and entered. Claims 1-26 are pending. Claims 16-24 and 26 are withdrawn from consideration.

Election/Restrictions

2. This application contains claims 16-24 and 26 drawn to an invention nonelected without traverse in action mailed September 8, 2006. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

Double Patenting

3. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29

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USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

4. Claims 1, 2 and 9 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 5-6,9 and 16 of copending Application No. 10/665249. Although the conflicting claims are not identical, they are not patentably distinct from each other because both applications use steps that are clearly similar. Claim 1 of the instant application is narrower than claim 1 of application 10/665249. For example, claim 1 of instant application states "identify a first input value", claim 1 of application 10/665249 states "select a first set of input values". Another step in claim 1 of the instant application recites "invoke a first execution of the analytical task by providing the first input value to a first analytical engine" while a step

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of claim 1 of application 10/665249 recites "invoke execution of the first additional analytical task on a first analytical engine". In effect both state the same thing. Another example is claim 2 of instant application states "The computer system of claim 1, wherein the first analytical engine and the second analytical engine are located externally from the computer system" while claim 16 of application 10/665249 states "The computer system of claim 1, wherein the first and second analytical engines are located externally from the computer system".

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-15 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Wocke et al. (US 2006/0161814 A1).

As per claim 1 Wocke et al. is directed to a computer system to invoke multiple executions of an analytical task in response to receiving a request for analytical

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information from a front-end software application, wherein the computer system is programmed to:

use the request to identify a first input value (page 2, paragraph 0023, lines 23-25);

invoke a first execution of the analytical task by providing the first input value to a first analytical engine (page 3, paragraph 0039, lines 1-3, page 4, paragraph 0063, second column, lines 4-6);

identify a second input value (page 2, paragraph 0023, lines 23-25, wherein "second input" could mean next set of data records); and

invoke a second execution of the analytical task by providing both the first and second input values to a second analytical engine (page 3, paragraph 0039, lines 1-3; page 4, paragraph 0063, second column, lines 4-6).

As per claim 2 Wocke et al. is directed to the first analytical engine and the second analytical engine are located externally from the computer system (page 4, paragraph 0063, second column, lines 4-6; page 4, paragraph 0064, lines 1-3).

As per claim 3 Wocke et al. is directed to the first analytical engine and the second analytical engine are the same analytical engine (page 3, paragraph 0041, lines 1-3).

As per claim 4 Wocke et al. is directed to the request includes the first input value (page 2, paragraph 0023, lines 23-25).

As per claim 5 Wocke et al. is directed to the request includes the second input value (page 2, paragraph 0023, lines 23-25, wherein "second input" could mean next set of data records).

As per claim 6 Wocke et al. is directed to the computer system is programmed to obtain the first input value by invoking an execution of an additional analytical task (page 1, paragraph 0004, line 7).

As per claim 7 Wocke et al. is directed to the computer system is programmed to obtain the second input value by invoking an execution of an additional analytical task (page 1, paragraph 0004, line 7).

As per claim 8 Wocke et al. is directed to the computer system is programmed to obtain the second input value from an additional request that is received from the front-end software application (page 4, paragraph 0064, wherein the system can be the front end application that is separate from server on which the analysis could be done).

As per claim 9 Wocke et al. is directed to the analytical task is a prediction task, and wherein the first and second analytical engines are prediction engines (page 4, paragraph 0063, second column, line 23).

As per claim 10 Wocke et al. is directed to the computer system is programmed to use the request to identify the first and second prediction engines (page 4, paragraph 0063, second column, lines 32-39, wherein multiple engines may receive different inputs).

As per claim 11 Wocke et al. is directed to the computer system is programmed to:

invoke the first execution of the prediction task on the first prediction engine by providing the first input value as input into a first data mining model (page 3, paragraph 0041, lines 1-2, wherein data mining models are used in data mining); and

invoke the second execution of the prediction task on the second prediction engine by providing both the first and second input values as input into a second data mining model (page 3, paragraph 0041, lines 1-2, wherein data mining models are used in data mining).

As per claim 12 Wocke et al. is directed to the first and second data mining models are a common data mining model, and wherein the first and second data mining models are used by the first and second prediction engines during task execution (page

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3, paragraph 0043, lines 4-5; page 4, paragraph 0063, second column, line 23, wherein the data mining is part of the analysis process that includes prediction engines).

As per claim 13 Wocke et al. is directed to the computer system is programmed to automatically send output information generated from the first execution of the analytical task back to the front-end software application (page 3, paragraph 0043, lines 5-7; page 11, paragraph 0279, lines 1-2).

As per claim 14 Wocke et al. is directed to the computer system is programmed to automatically send output information generated from the second execution of the analytical task back to the front-end software application (page 3, paragraph 0043, lines 5-7; page 11, paragraph 0279, lines 1-2).

As per claim 15 Wocke et al. is directed to a computer-implemented method to invoke multiple executions of an analytical task in response to receiving a request for analytical information from a front-end software application, the method comprising:

using the request to identify a first input value (page 2, paragraph 0023, lines 23-25);

invoking a first execution of the analytical task by providing the first input value to a first analytical engine (page 3, paragraph 0039, lines 1-3, page 4, paragraph 0063, second column, lines 4-6);

identifying a second input value (page 2, paragraph 0023, lines 23-25, wherein "second input" could mean next set of data records); and

invoking a second execution of the analytical task by providing both the first and second input values to a second analytical engine (page 3, paragraph 0039, lines 1-3; page 4, paragraph 0063, second column, lines 4-6).

As per claim 25 Wocke et al. is directed to a computer-readable medium having computer-executable instructions contained therein to perform a method, the method comprising:

using the request to identify a first input value (page 2, paragraph 0023, lines 23-25);

invoking a first execution of the analytical task by providing the first input value to a first analytical engine (page 3, paragraph 0039, lines 1-3, page 4, paragraph 0063, second column, lines 4-6);

identifying a second input value (page 2, paragraph 0023, lines 23-25, wherein "second input" could mean next set of data records); and

invoking a second execution of the analytical task by providing both the first and second input values to a second analytical engine (page 3, paragraph 0039, lines 1-3; page 4, paragraph 0063, second column, lines 4-6).

Response to Arguments

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7. Applicant's arguments filed March 5, 2007 have been fully considered but they are not persuasive.

In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., invoking a second execution of the **same** analytical task.) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The prior art reads on inputting sequences of data into an engine. The art also presents several engines that receive said sequences of data to perform as analysis task. The claim does not expand on what the analytical task is. The prior art broadly presents engines that perform analytical tasks (see paragraph 0063-0065).

In response to applicant's argument on page 10, the recitation "front-end software application or a request from a front-end software application" has not been given patentable weight because the recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural

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limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

Conclusion

8. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tomasz Ponikiewski whose telephone number is (571)272-1721. The examiner can normally be reached on 8:00-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey A. Gaffin can be reached on (571)272-4146. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Tomasz Ponikiewski
May 1, 2007



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